

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Medical Transportation Program Emergency Ambulance Services Enhanced Reimbursements (LAC 50:XXVII.331)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XXVII.331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 305 of the 2016 Regular Legislative Session directed the Department of Health to provide enhanced reimbursements to qualified providers of emergency ground ambulance services that are assessed a provider fee.

In order to comply with the requirements of Act 305, the department promulgated an Emergency Rule which adopted provisions to establish enhanced Medicaid reimbursements through the Supplemental Payment Program for qualifying emergency ground ambulance service providers (*Louisiana Register*, Volume 42, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2016 Emergency Rule.

#### Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXVII. Medical Transportation Program

## **Chapter 3.       Emergency Medical Transportation**

### **Subchapter B.   Ground Transportation**

#### **§331.       Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers**

A.   Effective for dates of service on or after August 1, 2016, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48.I.4001.E.1.a-d shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in Louisiana Medicaid State Plan Amendment Transmittal Number 11-23.

#### **B.   Calculation of Average Commercial Rate.**

1.   The enhanced reimbursement shall be determined in a manner to bring the payments for these services up to the average commercial rate level as described in Subparagraph C.3.h. The average commercial rate level is defined as the average amount payable by the commercial payers for the same service.

2.   The department shall align the paid Medicaid claims with the Medicare fees for each healthcare common procedure coding system (HCPCS) or current procedure terminology (CPT) code for the ambulance provider and calculate the Medicare payment for those claims.

3.   The department shall calculate an overall Medicare to commercial conversion factor for each ambulance

provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims.

4. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

C. Payment Methodology.

1. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. The enhanced reimbursement shall be determined in a manner to bring payments for these services up to the community rate level.

a. *Community Rate*-the average amount payable by commercial insurers for the same services.

3. The specific methodology to be used in establishing the enhanced reimbursement payment for ambulance providers is as follows:

a. The department shall identify Medicaid ambulance service providers that qualify to receive enhanced reimbursement Medicaid payments for the provision of emergency ground ambulance transportation services.

b. For each Medicaid ambulance service provider identified to receive enhanced reimbursement Medicaid payments, the department shall identify the emergency ground ambulance transportation services for which the provider is eligible to be reimbursed.

c. For each Medicaid ambulance service provider described in Subparagraph C.3.a. of this Section, the department shall calculate the reimbursement paid to the provider for the provision of emergency ground ambulance transportation services identified under Subparagraph C.3.b. of this Section.

d. For each Medicaid ambulance service provider described in Subparagraph C.3.a. of this Section, the department shall calculate the provider's equivalent community rate for each of the provider's services identified under Subparagraph C.3.b. of this Section.

e. For each Medicaid ambulance service provider described in Subparagraph C.3.a. of this Section, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency ground ambulance transportation services under Subparagraph C.3.c. of this Section from an amount equal to the amount calculated for each of the emergency ground ambulance transportation services under Subparagraph C.3.d. of this Section.

f. For each Medicaid ambulance service provider described in Subparagraph C.3.a. of this Section, the department

shall calculate the sum of each of the amounts calculated for emergency ground ambulance transportation services under Subparagraph C.3.e. of this Section.

g. For each Medicaid ambulance service provider described in Subparagraph C.3.a. of this Section, the department shall calculate each provider's upper payment limit by totaling the provider's total Medicaid payment differential from Subparagraph C.3.f. of this Section.

h. The department shall reimburse providers identified in Subparagraph C.3.a. of this Section up to 100 percent of the provider's average commercial rate.

D. Effective Date of Payment.

1. The enhanced reimbursement payment shall be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016. This payment is based on the average amount that would have been paid at the equivalent community rate.

2. After the initial calculation for fiscal year 2015-2016, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually but shall be made no less than every three years.

E. Maximum Payment.

1. The total maximum amount to be paid by the department to any individually qualified Medicaid ambulance

service provider for enhanced reimbursement Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under Subparagraph C.3.f. of this Section

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total

direct or indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule increases payments to qualifying emergency ambulance service providers.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person

Preparing

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Financing

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Address: Baton Rouge, LA

Rule Title: Medical Transportation Program  
Emergency Ambulance Services  
Enhanced Reimbursements

Date Rule Takes Effect: August 1, 2016

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

*It is anticipated that the implementation of this proposed rule will result in estimated state programmatic cost of \$2,092,469 for FY 16-17, \$3,138,137 for FY 17-18 and \$3,138,137 for FY 18-19. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.*

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

*It is anticipated that the implementation of this proposed rule will increase statutory dedicated revenue collections by approximately \$2,092,091 for FY 16-17, \$3,138,137 for FY 17-18 and \$3,138,137 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately \$3,451,718 for FY 16-17, \$5,177,011 for FY 17-18 and \$5,177,011 for FY 18-19. It is anticipated that \$378 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.*

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

*This proposed Rule continues the provisions of the August 1, 2016 Emergency Rule which adopts provisions to establish enhanced Medicaid reimbursements through the Supplemental Payment Program for qualifying emergency ground ambulance service providers. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medical Transportation Program by approximately \$5,543,431 for FY 16-17, \$8,315,148 for FY 17-18 and \$8,315,148 for FY 18-19.*



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

*It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.*



\_\_\_\_\_  
Signature of Agency Head  
or Designee

*Evan Brasel, Staff Director*  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

Jen Steele, Medicaid Director  
Typed name and Title of  
Agency Head or Designee

8/11/16  
\_\_\_\_\_  
Date of Signature

*Shaker Ford*  
\_\_\_\_\_  
DHH/BHSF Budget Head

08/10/16  
\_\_\_\_\_  
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

*This proposed Rule continues the provisions of the August 1, 2016 Emergency Rule which adopts provisions to establish enhanced Medicaid reimbursements through the Supplemental Payment Program for qualifying emergency ground ambulance service providers.*

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

*Act 305 of the 2016 Regular Legislative Session directed the Department of Health to provide enhanced reimbursements to qualified providers of emergency ground ambulance services that are assessed a provider fee.*

*In order to comply with the requirements of Act 305, the department promulgated an Emergency Rule which adopted provisions to establish enhanced Medicaid reimbursements through the Supplemental Payment Program for qualifying emergency ground ambulance service providers (Louisiana Register, Volume 42, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2016 Emergency Rule.*

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

*Yes, this proposed rule will result in an increase in programmatic expenditures by approximately \$5,544,187 for FY 16-17, \$8,315,148 for FY 17-18 and \$8,315,148 for FY 18-19. In FY 16-17, \$756 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ If yes, attach documentation.

(b)   x   If no, provide justification as to why this rule change should be published at this time.

*Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to provide reimbursements to providers for Medicaid covered services. This rule change should be published at this time to ensure recipients will have continued access to emergency ground ambulance transportation services.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 16-17	FY 17-18	FY 18-19
PERSONAL SERVICES			
OPERATING EXPENSES	\$756	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$5,543,431	\$8,315,148	\$8,315,148
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$5,544,187</b>	<b>\$8,315,148</b>	<b>\$8,315,148</b>

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

*The expenses reflected above are the estimated increases in programmatic expenditures in the Medicaid program. In FY 16-17, \$756 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND	\$378		
SELF-GENERATED			
FEDERAL FUND	\$3,451,718	\$5,177,011	\$5,177,011
OTHER (Specify)	\$2,092,091	\$3,138,137	\$3,138,137
<b>Total</b>	<b>\$5,544,187</b>	<b>\$8,315,148</b>	<b>\$8,315,148</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

*Yes, sufficient funds are available to implement this rule.*

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

*This proposed rule has no known impact on local governmental units.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

*There is no known impact on the sources of local governmental unit funding.*

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*	\$2,092,091	\$3,138,137	\$3,138,137
FEDERAL FUNDS	\$3,451,718	\$5,177,011	\$5,177,011
LOCAL FUNDS			
Total	\$5,543,809	\$8,315,148	\$8,315,148

*\*Specify the particular fund being impacted - Statutory Dedicated Revenue*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

*The amounts reflected above are the estimated increases in the federal share of programmatic expenditures for the Medical Transportation Program. In FY 16-17, \$378 is included for the federal expense for promulgation of this proposed rule and the final rule.*

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

*This proposed Rule continues the provisions of the August 1, 2016 Emergency Rule which adopts provisions to establish enhanced Medicaid reimbursements through the Supplemental Payment Program for qualifying emergency ground ambulance service providers.*

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

*It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medical Transportation Program by approximately \$5,543,431 for FY 16-17, \$8,315,148 for FY 17-18 and \$8,315,148 for FY 18-19.*

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

*It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.*